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DEPARTMENT OF STATE
DEPUTY UNDER SECRETARY

December 15, 1958

MEMORANDUM FOR: U - Governor *Herter*

THROUGH: S/S *✓*

FROM: G - Mr. Murphy *LM* *in LD*

SUBJECT: EUR's Position Paper on Berlin.



This document must be returned to the EUR Central File

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EUR's position paper on Berlin reached me only Thursday morning before my departure for San Francisco so there was no opportunity for comments to Livvy Merchant before I left.

I would like to make the following suggestion in the hope the Secretary and you would consider them in connection with the forthcoming conversations in Paris.

1. Timing of the reply to the Soviet note:

The Soviet Union has undoubtedly timed its present action (Khrushchev's November 12 speech incident to Gomulka's Moscow visit, Smirnov's oral presentation to Adenauer and finally the Soviet Government note to the powers dated November 27) with some definite pattern in mind. What is that pattern? We do not know. It is a fair guess that Polish considerations were involved and it may have been responsive to Gomulka's wishes or ideas. There may have been elements in the Sino-Soviet relationship which stimulated it and Walter Ulbricht and the East Germans may have played a minor role. But that this issue will be a factor in the January Party Congress in Moscow would seem certain. I believe the six months' term in the Russian note is somehow connected with the timing of the Party Congress. The question is: Should the Western substantive reply precede or follow the Congress? I don't know the answer, but I think the question should be seriously discussed at Paris. Superficially, it would seem safer to send the reply subsequent to the Congress meeting in the hope we might glean useful information from the meeting which would help us frame the reply. This would be an added argument in favor of the interim note suggested by the Secretary.

2. The Germans have been fairly vigorous in advising the West as to what the latter should do. *But* might be good tactics to throw out at the Sunday meeting in Paris two suggestions for study:

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(a) In the past, the Germans have considered the possibility of establishing the capital of the German Federal Republic in West Berlin. According to Ambassador Grewe, one opposing reason was a security consideration relating to transit of classified documents through the corridor, and another the question of having the Defense Ministry in West Berlin exposed to risk of seizure by the Soviet Union. If the Germans would now say ~~no~~ in reply to the present Soviet threat that they are prepared to establish their capital in West Berlin, their preoccupation regarding security could be accepted by the three occupying powers, guaranteeing the safety of communications and the security of the establishment in Berlin. The actual risk of a Soviet military attack against West Berlin does not appear greater than the danger of a Soviet attack on Bonn. The difference is a matter of a very few miles.

(b) Supplementing this, the German Federal Republic would, with the authorization of the three occupying powers, station a military force in Berlin to provide local security in cooperation with the Allies. The German Federal Republic now has some nine Divisions and should be in a position to provide this personnel.

Justification for such an affirmative counter-proposal is provided by the present Soviet note of November 27. The proposal will illuminate for Soviet benefit the seriousness with which the West regards the Soviet clumsy initial step to start a chain of events which would detach Germany from NATO and smash the alliance. Psychologically, we seem to be provided free of charge with a real opportunity for a show of constructive aggressiveness in the form of a progressive step toward genuine democratic reunification of Germany.

Such a proposal also would offer something for the Germans to shoulder as a responsibility offsetting their present tendency to exhort the West to stand firm.

3. With regard to the selection of a site for the drafting work, I was impressed by Dave Bruce's recommendations against Bonn.

4. About the proposal (3(3)^N of the position paper) for a restatement of our legal arguments regarding Soviet obligation to remain as an occupying power, we should be careful to hedge this with words showing it is not our intention to perpetuate military occupation beyond a democratic reunification of Germany.

5. About paragraph 3(b)(2) to the effect we should be willing to permit participation of the Germans from either part of the country in the 4-power discussions of the German proposal, I see no advantage in making such a premature offer.

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6. Paragraph 3(b)(5) of the position paper suggests we make a statement that we recognize the achievements of reunification may be long and difficult. This lends itself gratuitously to Soviet propaganda that we are delaying reunification. The tone we should adopt is one of insistence on immediate progress. Let the Russians say it will be long and difficult. We are doing what we can to expedite it.

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7. In drafting a reply we should ignore base charges of connivance with Hitler which the Soviet note contained and should devote a stinging paragraph to the reprehensible Molotov-Ribbentrop Agreement of August 23, 1939, which really touched off World War II.

I think the Secretary, if he has the time and does not remember, should read Khrushchev's speech of November 12.

Part of the foregoing, of course, would also apply to the Secretary's NATO statement.

cc: S/S
EUR - Mr. Merchant
C - Mr. Reinhardt
S/P - Mr. Smith

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PWM: D-9/2

December 11, 1958

NATO MINISTERIAL MEETING
Paris, December 16-18, 1958

The Soviet Note of November 27 and Berlin Situation

(Bilateral Position Paper)

The attached paper was drafted by GER - Messrs. Lamson and McKiernan and cleared by GER - Mr. Hillenbrand, RA - Mr. Fessenden, EE - Mr. Freers, EUR - Mr. Kohler and L - Mr. Becker. It has not been cleared in Defense. The paper is circulated for your information.

Robert H. Miller
S/S-FO
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NATO MINISTERIAL MEETING
Paris, December 16-18, 1958

THE SOVIET NOTE OF NOVEMBER 27 AND THE
BERLIN SITUATION

Introduction

The Berlin problem and the Soviet Note of November 27 will be considered by the Foreign Ministers tripartitely and quadripartitely on Sunday December 14. There will be a full Council discussion under Agenda Item II scheduled for December 16.

Suggested U.S. Position *

1. Timing of a Reply to the Soviet Note of November 27.

The Western replies should be sent as soon as it is possible to work out a thoroughly coordinated substantive answer. No interim acknowledgment should be sent. Identical texts -- at least in the substantive portions -- from the Four Powers with a Federal Republic note coordinated in substance would create a greater impression of Western solidarity than varying replies. The Four Foreign Ministers should now agree on a directive for the preparation of a reply.

2. Site for Drafting Work.

He would like to see the preparation of a draft carried out in Bonn which seems the logical place. We all have top flight German experts there. The draft agreed in Bonn should be submitted to governments for approval and then be discussed in the North Atlantic Council.

3. Substance of a Reply.

We believe an indispensable element of our reply to be a restatement of our basic position in Germany, including our position re Berlin. Therefore the essential reply should contain:

* The Suggested U.S. Position section of this paper has been organized to fit a series of questions posed by Foreign Minister von Brentano in a quadripartite meeting in Bonn on December 8.

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(1) A restatement of our determination to maintain our rights and position in Berlin and to uphold the existing security and freedom of the city.

(2) A brief refutation of the historical interpretation upon which the Soviets attempt to base a repudiation of Four Power agreements. (We would prefer to leave the detailed correction of Soviet distortions of history to a separate "white paper", which would be given maximum distribution.)

(3) A restatement of our legal argument that the USSR cannot unilaterally abrogate the occupation rights of the three Western Powers or the Four-Power agreements and that we shall continue to hold the USSR responsible under those agreements.

(4) A rejection of the Soviet proposal for a "free city" of West Berlin together with an explanation of the reasons for rejection which will make the issues clear.

(5) A statement that it is the actions of the USSR and the East German puppet regime which have created the existing difficulties in Berlin and have made Berlin the focus of international tension.

(6) A statement that the problem of Berlin is part of the problem of Germany as a whole and that there can be no genuine or lasting solution outside the context of German reunification.

(7) A reference to the notes of September 30, 1958, to which the USSR has not replied, and a statement of our readiness to resume at any time discussions of the German problem broken off after the Geneva conference.

B. While the above represents the minimum which a reply must contain, we believe the reply should also take a constructive tone and not be limited to a mere restatement of our position and a rejection of the Soviet position. In addition to making the underlying issues and our position clear, we believe our reply should recognize the interrelation of the problems of Berlin, German reunification, European security, and disarmament and should seize this opportunity for a new diplomatic offensive on this complex of questions. We further believe our reply should be formulated to offset the influence which the Soviet note may have had on those elements of world opinion which are unfamiliar or unconcerned about the Berlin situation and may thus think the Western position is unduly rigid. Therefore we believe it desirable that our reply contain some or all of the following:

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(1) A proposal for a conference of Four Foreign Ministers at a stated time and place to discuss the problem of Germany and/or the security of Berlin within the framework of European security and disarmament problems.

(2) An indication of some superficial, if not substantial, modification of our previous position re German reunification, e.g. an expression of our willingness to permit the participation of German "experts" from either part of the country in Four-Power discussions of the German problem.

(3) Following a reiteration of our position re the responsibility of the Four Powers for Berlin, a statement of our willingness to discuss with the Soviets ways and means of reducing tension in Berlin and improving conditions for the Berlin population.

(4) A summary of the real problems of Berlin which, if the Soviets wished to make a positive contribution, could properly be made subjects for Four-Power discussions. A summary should stress the maintenance of Berlin's unity, freedom, and security; the freedom of Berlin's transport and communications; and the free determination by the population of Berlin both of the political and economic regime within the city and of the city's political relationships with other parts of Germany.

(5) A statement that we recognize the achievement of reunification may be long and difficult, a proposal that the Ambassadors of the Four Powers in Germany, assisted by German experts, meet regularly to consider interim measures to minimize hardships which the prolonged division of the country imposes on the population, e.g. to study the possibility of assuring freedom of movement from one part of Germany to another, the possibility of improving interzonal transport facilities, etc.

(6) A statement of our readiness to submit the legal dispute with the USSR over the status of Berlin to the International Court of Justice for adjudication.

4. How to React if the Soviets Withdraw from Berlin.

The present contingency plans for Berlin should be revised. They are not applicable to the present situation.

It is evident that the Berlin, Soviet Zone and Federal Republic populations would regard any dealing with GDR checkpoint personnel (as provided for in the present plans) as a first step, however tentative, towards

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recognition of the GDR regime, and as casting serious doubt on the Western resolution to honor our Berlin commitment.

The rationale behind such dealings -- namely the agency theory -- is no longer convincing in the light of the position taken by the Soviets in their note of November 27. The agency theory, which at best could only have provided an interim solution breaks down when both the principal (USSR) and the "agent" (GDR) deny such a relationship. Actually, after the Soviets relinquish their occupation rights, the three western powers would be the sole occupying powers in Germany and if the GDR were acting as agent for anyone, it would be for these three occupying powers. Clearly, we would not appoint the GDR as our agents.

The Four Foreign Ministers should direct their representatives in Bonn to review the contingency plans with a view to eliminating the provisions authorizing Allied military personnel to deal with GDR personnel at checkpoints on the rail and road routes to Berlin. (For Aide-Memoire on this subject, see Tab C.)

Anticipated German Position

Although we have been given no authoritative expression of German views von Brentano is likely to speak along the lines indicated below on the various aspects of the Berlin problem discussed under the following sub-paragraphs:

1. Timing of Reply to Soviet Note.

He will probably recommend that a preliminary reply be sent early in January, to be followed by a thorough-going refutation of Soviet falsifications at a later date. The Germans believe each of the Western Four should send its own individual answer which should be generally similar in substance but not identical in form to the other western replies.

2. Site for Drafting Work.

He will press for Bonn as the place where the replies to the Soviet Note should be coordinated. He will argue that top flight German experts of the Three Powers are already in Bonn and that the German Foreign Office would find it easier to work there.

3. Substance of a Reply.

We have no clear indication as to what line the Germans want taken in a reply. It seems likely, however, that they will wish the preliminary reply to make it clear that the Soviet Berlin proposal is totally unacceptable and that the USSR will run a serious risk of conflict with the NATO Powers if they attempt to carry it out unilaterally. They will argue that if the Western Powers should enter into any negotiations before this is made clear their negotiating position would be impossibly weak. Although news reports have represented the Chancellor as maintaining that the Western Powers should not enter into negotiations with the USSR over the German problem as a whole under the pressure of a Soviet delayed ultimatum on Berlin, we believe that the Germans, if the initial point mentioned above has been registered, will be willing to consider the possibility of negotiations with the Soviet Union on broader themes, perhaps on a general settlement including the German problem.

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The Chancellor's known views on possibilities for a settlement of the German problem will certainly form the frame of reference for any German discussion of negotiating possibilities for a broad settlement. Adenauer considers the only chance for achieving German reunification to lie in making progress in the field of general disarmament. He indicated last summer that he is not prepared to agree to limitations of German armed forces which would apply only to Germany, Poland and Czechoslovakia. He is strongly opposed to the Rapacki Plan which he believes would result in the neutralisation of Germany. (The Rapacki Plan appeals strongly to German Social Democrats as a point of departure for discussions on German unity; they are prepared to pay the price of renunciation of atomic weapons for reunification.) Adenauer does not consider himself bound by the Geneva proposals on European security; in his view they have been superseded by events. (For a discussion of this problem see Tab A, Enclosure 5.)

It is possible that the Germans will propose a firm rejection of Soviet proposals on Berlin and far-reaching Western counter-demands for Berlin including a four-lane highway for vehicles, and an agreement for unhindered air traffic in the three existing air corridors as well as appropriate agreements on canal and rail traffic.

4. How to React if the Soviets Withdraw from Berlin

The Germans will press strongly for a revision of the contingency plans for Berlin so that there will be no possibility of Western military personnel dealing with GDR personnel on the checkpoints. They will probably argue that quite apart from the legal aspects of this question, any such dealings would set off a highly dangerous chain reaction in Germany because it would be interpreted as an indication that the West was prepared to cave in under Communist pressure.

Anticipated British Position

1. Timing of the Reply.

The British believe that the Four Ministers during the Paris meeting should draw up a directive for the preparation of the Western replies.

2. Site for Drafting Work.

They will almost certainly support the German position that Bonn would be the best place to work out final drafts pursuant to governmental directives.

3. Substance of a Reply.

The British will favor replying by an offer to negotiate over a broad field, including European security, Germany and disarmament. Selwyn Lloyd has already sketched out in the House of Commons an approach which takes as its point of departure the Geneva zone of limitations concept and which places emphasis on the possibility of agreeing to the neutralisation of the Soviet

Zone of Germany and thus creating a situation in which Berlin would be in the center of a neutralized area. (The British Government is under strong pressure from the Labour Party to strike a "reasonable" and tranquilizing attitude. The Labour Party favors using the Rapacki Plan as the point of departure for seeking a solution for the German problem -- presumably in the direction of Labour's own disengagement plan which is less unfavorable to the West -- and believes that the Soviet Union would consider paying the price of German reunification if it could prevent the nuclear armament of Germany.)

4. How to React if the Soviets Withdraw from Berlin.

Although the British favor taking a strong public stance on the defense of Berlin and have sent a useful message to Khrushchew, they are reluctant to face up to the possibility that force may be required for the defense of the Western position in Berlin. There are strong indications that they may even prefer to recognize the East German regime, at least on a de facto basis, if refusal to do so would create a situation in which we could only maintain our position in Berlin by use of force. The British Embassy gave us a preliminary paper on November 18 in which this course of action was recommended. The British are strongly opposed to changing the present contingency plans which authorize allied military personnel to deal to a limited extent under certain circumstances with GDR personnel at checkpoints on the road and rail routes from West Germany to Berlin.

If the question arises whether to maintain access to our garrisons by use of force on the ground or by an airlift, the British will probably strongly advocate mounting an airlift.

5. A Basic Question -- At What Point are we Really Ready to Fight for Berlin?

The British may argue that it is essential that we begin the six-months period with a clear understanding of how far we are prepared to go in any given situation. They fear that time may be frittered away on non-essentials and that we may find ourselves at the end of the period, if subjected to pressures for which we have not prepared ourselves, making injudicious rash decisions. They may wish to define clearly at the beginning what we consider a *casse belli*. They may call for a clear definition of their responsibilities. Although they might advocate a cautious policy, they will probably support a commitment to fight for Berlin if it is clear out and generally agreed to.

Anticipated French Position

We have very little information about General de Gaulle's thinking on the Berlin issue except that he apparently views it as an opportunity to use in advancing his objective of reviving closer US-British-French consultation.

1. Timing of Reply.

The French will probably be in favor of a reply in the near future -- possibly supporting the German view that early January is a reasonable target date.

2. Site for Drafting Work.

They will make a major issue out of the location of the drafting committee and will press for Paris and as second best London or Washington. They will oppose strongly Bonn as a site because they consider such a location will make it more difficult to arrive at what they believe should be agreed tripartite positions before cutting in the Germans.

3. Substance of a Reply.

We have little firm ground on which to anticipate French views on substance. They will wish a fairly short reply with an annex in which Soviet falsifications will be corrected. They will presumably be prepared to make a very strong statement about the unacceptability of the Soviet proposals. It is unlikely that they think there is any reasonable chance that the Soviet note can provide a useful opportunity to propose negotiations on a broad front. Their Soviet experts do not think there is any chance of progress at this time. They are worried about the appeal of the Rapacki Plan in England, the smaller NATO countries and among the uncommitted nations. They fear that a proposal at this time for broad negotiations may provide the Soviets a platform for displaying wares which despite their noxious character appear very appealing to many people. The sweeping losses of the French Socialists and Communists and the overwhelming mandate given to de Gaulle means that the French Government does not feel itself under the same type of popular pressure that the British Foreign Office is conscious of. For these reasons the French may be in favor of a stiff reply.

4. How to Act if the Soviets Withdraw from Berlin.

The French will probably support the British, at least initially, in opposing a revision of the contingency plans. They will probably also prefer using an airlift in case of a blockade.

Anticipated Positions of Other NATO Countries

The Italians will probably favor a strong stand on Berlin but will urge that NATO take a much greater role in formulating policy regarding Berlin. The Dutch, the Belgians and the Turks will probably support a strong line on Berlin. The Danes, Norwegians, and the Canadians will show some sympathy for examining the revised Rapacki Plan or some of the disengagement proposals put forward in the West in an effort to find a possible way out of the Berlin crisis.

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Discussion

Detailed papers providing background and analysis in regard to the subjects discussed above are included as attachments as follows:

TAB A - Soviet Note on Berlin -- Analysis and Comments

- Enclosure 1 - Description and Analysis of Soviet Note
- Enclosure 2 - Probable Soviet Motivation and Objectives
- Enclosure 3 - Consequences for Berlin of Acceptance of Soviet "Open City" Proposal
- Enclosure 4 - Considerations Governing Response to Soviet Note
- Enclosure 5 - Status of Discussions of German Reunification and European Security

TAB B - Possible Courses of Action on Berlin

- Enclosure 1 - Recommended Course of Action
- Enclosure 2 - Withdrawal of Soviet Personnel from Railway and Autobahn Checkpoints and Current Contingency Plans
- Enclosure 3 - Resort to Force to Maintain our Communications with Berlin
- Enclosure 4 - Little Airlift to Supply Needs of Garrison
- Enclosure 5 - Legal Aspects of Soviet Renunciation of Responsibility
- Enclosure 6 - Military Implications of Allied Assumption of Soviet Obligations for Allied Access to Berlin
- Enclosure 7 - Prospects for Negotiation with the USSR Regarding Germany.

TAB C - U.S. Aide-Memoire of December 11, 1958 regarding Revision of Berlin Access Contingency Plans.

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TAB A

SOVIET NOTE ON BERLIN - ANALYSIS AND COMMENTS

The Soviet note of November 27, 1958 on Berlin is largely a restatement of the known Soviet position on Germany and a catalog of the themes of Communist propaganda regarding Germany.

The note appears to have been designed to further two main Soviet objectives: to stabilize the status quo, i.e., the Soviet imperium over Eastern Europe; and conversely, to weaken the anti-Soviet forces in Western Europe. The GDR is a weak link in the chain of satellites. An important factor retarding the communization of East Germany is the influence of free Berlin. In order to bolster the GDR regime at home and win acceptance of it abroad, the Soviets need to "neutralize" free Berlin. The conclusive step in this process is the withdrawal of the Western occupation forces or the reduction of these forces to impotence. Obliging the Allied forces to withdraw from Berlin, or as an intermediate step, to acknowledge that they remain in Berlin on the sufferance of the GDR, would undermine faith in the Western Powers' readiness and capability to defend the rest of Europe. By provoking a serious crisis over Berlin the Soviets may also hope to divide NATO, some members of which might oppose risking a war over the status of Berlin, and to influence the Federal Republic to forego nuclear armament and to seek alternatives to current Western policies.

The Soviet note contains two features of particular interest:

1. It further crystallizes the Soviet positions that the occupation regime in Berlin has lost its legal and moral basis, that the relations of West and East Germany are a matter for the "two German states," rather than the Four Powers,

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to regulate and that Soviet responsibility in Germany is now limited to the conclusion of a peace treaty. This crystallization is accomplished by the USSR's declaring the basic agreements on the occupation and four-power administration of Germany to be "null and void" and by its setting a deadline (May 27, 1959) after which it will no longer perform any of its occupation functions relation to Berlin.

2. It makes a new tactical approach to the attainment of Soviet objectives regarding Berlin. The note proposes the establishment of a "free city" of West Berlin from which Western forces would be withdrawn, which would sever its ties with the Federal Republic, which would permit the GDR to exercise control over its communications to the West, and which would not engage in any activity directed against the GDR. Although this proposal theoretically involves a holding in abeyance of the Communist claim that all Berlin is part of the GDR, it would mean in fact the elimination of all the features which prevent the incorporation of Berlin into the GDR.

The note more or less takes the form of an ultimatum and does not seem to offer a basis for useful negotiation on Berlin. The proposal for a "free city" of West Berlin is clearly unacceptable, for its acceptance would mean the Western Powers were abandoning the city to Communist rule.

Nonetheless two factors militate against a purely negative reply. First, the note may be expected to exercise some influence on the uninformed and wishful-thinking elements of world opinion, and a flat rejection on our part might make us, rather than the USSR, appear intransigent. Second, and more important, the note contains a direct challenge to our fundamental policy and position

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position in Germany. In posing the Berlin problem, an inseparable part of the German problem, in the form of a showdown between the USSR and the Western Powers, the note not only obliges us to renew our efforts to achieve a solution of the problem of German reunification and the attendant problem of European security, but also presents us with an excellent opportunity for launching a diplomatic offensive on these subjects. The idea of a high-level conference has already been suggested. There seems little likelihood that we shall be able to find any formula for a solution acceptable to both the USSR and ourselves, but we might be able to keep the issues clear, demonstrate that the blame for the situation lies solely with the Soviets, and conceivably bring the force of world opinion to bear on the USSR with sufficient strength to compel the latter to permit some tolerable modus vivendi of West and East Germany, to accept the continued existence of free Berlin and the presence of the Allied forces there, and to relax some of the more oppressive measures against the population of the Soviet Zone.

Here, however, we face the difficulty that a mere restatement of our position on German reunification and European security could appear unoriginal and thus remain without effect. If we are to seize the initiative, it would therefore be necessary either to find some way of giving our present position greater appeal or of reformulating our position.

Although there can be no real solution of the Berlin problem outside the context of German reunification, it might be possible to develop a counter-proposal to the Soviet proposal on Berlin. Such a counterproposal, which could be embodied in a new approach to the problem of Germany as a whole or

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put forward separately pending the formulation of a new approach to the larger problem, might make it possible to initiate negotiations which could have the effect of retarding the implementation of Soviet threats against Berlin.

Although we may have gained up to six months' respite (which is far from certain), it is a matter of urgency that the policy regarding dealing with GDR personnel at surface access checkpoints be reviewed.

More detailed discussion will be found in the following attachments:

Enclosure 1 - Description and Analysis of Soviet Note.

Enclosure 2 - Probable Soviet Motivation and Objectives.

Enclosure 3 - Consequences for Berlin of Acceptance of Soviet
"Open City" Proposal.

Enclosure 4 - Considerations Governing Response to Soviet Note.

Enclosure 5 - Status of Discussions of German Reunification and
European Security.

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A. Description and Analysis of Soviet NoteDescription

In its note of November 27 to the United States the Soviet Government states its readiness to open quadripartite negotiations on "making Western Berlin an independent political entity---a free city," "demilitarized and having no armed forces on it" and managing its own government without interference from "either of the existing German states." The note proposes that the Four Powers "respect the status of Western Berlin as a free city" in a manner similar to the "respect for the neutral status adopted by the Austrian Republic," and states that the Soviet Government would not object to the United Nations "sharing in observing the free city status."

The note explicitly states that the USSR regards as "null and void" the quadripartite agreement of September 12, 1944, regarding the occupation zones and the administration of Berlin and "associated" agreements, including that of May 1, 1945, which set up the "Allied Control Machinery in Germany." It charges that the legal position of the Western Powers in Berlin has been undermined by their failure to live up to the terms of the Potsdam Agreement, and that the passage of thirteen years makes the presence of the Western Powers abnormal. It also charges that the Western Powers have retained their rights in Berlin for the purpose of aggressive acts against East Germany, the Soviet Union and other Eastern European states, and that "any violation of the frontiers of the GDR" will be regarded by the USSR and other members of the Warsaw Pact "as an act of aggression against them all and will immediately cause appropriate retaliation."

In the event the Western Powers agree to the Soviet proposal, the Soviet Government

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Government offers to undertake negotiations on this question with the German Democratic Republic, and the note calls attention to the necessity "of some kind of an agreement with the German Democratic Republic concerning guarantees of unhindered communications between the free city and the outside world." The note states that "there is no topic left for talks on the Berlin question" if the Soviet proposal is not acceptable. The Soviet Government "proposes to make no changes in the present procedure for military traffic to Berlin for half a year." The note states further that the Soviet Union will effect the planned measures by turning over Soviet rights, including "sovereignty on land, air and water," to the GDR "if the above period is not used for reaching a relevant agreement."

The note also grossly distorts Western relations with Germany since Munich, defends the Soviet position regarding German reunification and the German peace treaty and charges that "Western Powers have made no proposals on their own (on a German peace treaty) throughout the post-war period." The note claims that the best way in which to solve the Berlin question in accordance with the Potsdam Agreement would be for the two German states to withdraw from NATO and the Warsaw Treaty Organization and agree that neither "will have any armed forces in excess of those needed to maintain law and order at home and guarantee the frontiers."

Analysis

The USSR probably did not advance its proposals with the expectation that they would provide a basis for negotiations on West Berlin. The requirement for withdrawal of allied forces, the demand for complete rupture of West Berlin-West German ties and the ultimatum character of the note are

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clearly unacceptable bases for talks with the Three Powers.

1. The note is the opening diplomatic gambit in the Soviet campaign to generate pressure against the Western position in Berlin and against Western and West German policy on reunification. It provides the Soviets with something to advertise as a "peaceful initiative."

2. It should not be regarded as indicating Soviet hesitancy or weakness. It merely implements an approved Soviet tactic of following an action designed to heighten tension (Khrushchev's November 10 speech) with a delayed Soviet move which appears conciliatory. However, the intent to turn over Soviet powers in Berlin to the GDR is not only reaffirmed unequivocally but is now specified to apply to control of all types of access, land, sea and air. Also the Soviet guarantee of GDR security is spelled out further as applying to "any violation of the (GDR) frontier."

3. We must be prepared for a Soviet transfer of functions at any time. The reference to a six-month period during which "no changes in the present procedure for military traffic" to Berlin will be made is equivocal in the notes to the Western Powers. Furthermore, the implied moratorium would presumably not apply should Western response to the Soviet note be considered to indicate non-acceptance. Also the Soviet note to the GDR states that the turnover of Soviet functions and the dissolution of the Soviet Kommandatura "will be realized in the course of half a year" and a Soviet commentator on November 28 said the USSR "intends to go right ahead and confer all functions" on the GDR.

4. The specification of a "breather" period, though equivocal, is calculated to dissipate the Soviet responsibility for an increase in tensions,

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which might have accompanied any immediate Soviet challenge to the allied position in Berlin unaccompanied by an offer to negotiate.

5. This period may also be intended to provide a time during which Western public discussion of the issues is expected to generate differences and intensify pressures for solutions acceptable to the USSR.

6. It may also well be that the USSR desires some time in which to develop and publicize further its own proposals on the whole German problem (a German peace treaty, troop reductions or withdrawals, the atom-free zone, nonaggression pact). In this connection, it should be noted that the proposal for negotiating a "Peace Treaty" with the two German states would have the effect of accomplishing the same result as the present more direct proposal, i.e., to terminate Allied occupation rights in Berlin, while leaving the GDR intact.

7. The specious proposal for a form of peaceful and "reasonable" settlement of the Berlin question (not demanding incorporation of West Berlin into the GDR, not involving either recognition or de facto dealings with the GDR by Western powers, brooking the possibility of UN participation in solving the Berlin problem) is probably intended to appeal to uninformed sectors of public opinion, both in the Western and neutralist countries.

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The present Soviet position in Germany is essentially a combination of political weakness and military strength. On the one hand, the Communist regime in East Germany has signally failed to establish its own authority over the territory it governs and would almost certainly fall were Soviet troops withdrawn. The possibility of remedying this situation in the future is impeded by two major factors: the existence in the midst of East Germany of West Berlin (symbol of an attractive non-Communist alternative, source of uncensored information, asylum for talented East German refugees) and the growing military, economic and political strength and stature of West Germany.

On the other hand, the Soviet Union disposes formidable armed forces in East Germany and their presence there makes it possible for the USSR to block a solution of the German problem not acceptable to the Soviet Union. Also West Berlin's exposed physical position makes it vulnerable to Soviet pressures.

In this situation the priority aim of the Soviet Union is probably to remove the Berlin impediment and strengthen and legitimize the East German regime. It has consistently been the predominant concern of Soviet foreign policy to consolidate and maintain control over Communist-dominated areas and, if necessary, to subordinate expansionist aims to this goal. The failure in the post-Stalin policy toward the satellites, made manifest by the Hungarian uprising and the advent of the Gomulka regime in Poland, have made consolidation of the bloc particularly urgent. That the Soviet

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Union continues to consider this a pressing and unresolved problem was evident during the Soviet campaign for a summit meeting, when one of the few clear Soviet objectives was to obtain Western recognition of the status quo in Eastern Europe. Khrushchev's flat statement at his unprecedented press conference of November 27 that the Soviet position on Berlin would not be altered even if West Germany should renounce its rearmament program seems clear indication that in the present situation bloc consolidation is the paramount objective and that improvement of the East German position is a necessary step in that consolidation.

The Soviet Union also clearly hopes to inhibit the nuclear armament of the Federal Republic and, if possible, to bring about the withdrawal or reduction of Western troops stationed there. Toward this end it can be expected at some stage to reactivate and perhaps expand some or all of its existing proposals for a German peace treaty drafted with the participation of the two German states, the Rapacki Plan for an atom-free zone, and a non-aggression pact between members of NATO and the Warsaw Pact. Offers of negotiation will probably be accompanied by a propaganda campaign stressing the danger of war inherent in German rearmament and posing alternatives in the form of some or all of the above proposals, possibly accompanied by limited Soviet troop withdrawals and perhaps vague proposals for ultimate withdrawal of all Soviet forces. However, because of the over-riding need to improve the position of East Germany it is considered highly unlikely that the Soviet Union could undertake any unequivocal commitment involving total troop withdrawal and this inability imposes an important

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important limiting factor on Soviet initiatives on the broad German problem.

A third Soviet objective is the promotion of disunity among the NATO allies. Soviet leaders probably calculate that the impression of increased Soviet military strength, attending the recent development of Soviet rocket and nuclear capabilities and apparent differences among the NATO members afford new opportunities for testing the resolve and unity of the Western allies in meeting a threat to Western positions in Berlin and Germany.

Khrushchev's remarks to Senator Humphrey and Communist public statements and press treatment suggest strongly that the Soviet Union in the initial stages of the current campaign will try to focus attention on the Berlin question alone and avoid discussion of the broader German problem. Acceptance of Soviet proposals would make West Berlin an isolated outpost without means of self-defense and effective ties with West Germany, dependent for its continued existence on Communist sufferance. While the Soviets almost certainly do not expect Western acceptance of these proposals, they probably plan to go as far as possible toward this isolation of Berlin without risking major hostilities or alternatively to obtain de facto recognition of the GDR. They probably calculate that the West will not employ force in order to challenge GDR control of surface access to Berlin but the Communists are probably prepared to use local and limited force if necessary. In the tactical situation in Germany they probably reason that effective military action to block this access could

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be employed and localized. The USSR will probably suffer airlift support of the Allied garrisons which they might subject to harassment (in the note the Soviet guarantee for the GDR relates to "frontiers," which, if need be, might be interpreted as applicable to land borders only). Steps will also probably be taken to seal West Berlin off from East Berlin and East Germany and pressures exerted to erode the economic position of West Berlin. The Soviets may calculate that if the Western powers do not exercise their claimed right to surface access to Berlin for military traffic, this would make more difficult effective allied action in the event of a blockade of West German-West Berlin traffic. Such a move, which if successful would achieve much of Soviet objectives in Berlin, is not an unlikely development but is probably not contemplated for the immediate future.

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CONSEQUENCES FOR BERLIN OF ACCEPTANCE OF SOVIET "OPEN CITY" PROPOSAL

The acceptance of the Soviet proposal for transforming West Berlin into a "free city" would mean the elimination of the protection afforded by the presence of the Three Western Powers and the city's ties with the Federal Republic, which are the very basis of the city's freedom and security. Once these were eliminated, the Soviets would have little difficulty in accomplishing their longer-range objective of incorporating the city fully into the GDR, and the recent East German "elections" make it clear how they envisage the population's expressing its consent to such a development. Stated in blunt terms and seen in the light of known Soviet objectives, the Soviets are proposing:

- a. That the separation of East from West Berlin be formally recognized (until such time as the entire city is incorporated into the GDR).
- b. That the Allied Kommandatura be abolished and that the Western occupation forces be withdrawn. (The reference to the "demilitarization" of West Berlin no doubt indicates that West Berlin would also be deprived of police units (the Bereitschaftspolizei) trained to safeguard its security.)
- c. That West Berlin cover its time with the Federal Republic. (Except for its formal legal status and questions of its security, West Berlin has for all intents and purposes become a part of the Federal Republic. Severing this tie would have catastrophic effects on the city's political, economic, financial, legal, and social systems.)
- d. That the GDR exercise control over West Berlin's communications with the outside world.
- e. That West Berlin not engage in any activity directed against the GDR. (This phrase no doubt covers not only clandestine intelligence and propaganda

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propaganda activities but also the free dissemination of information, normal political activities in West Berlin, reception of refugees from the Soviet Zone, etc. This would provide the excuse for endless intervention and police action within West Berlin by GDR or possibly Soviet forces.)

f. That West Berlin's economy be absorbed into that of the Communist bloc.

Acceptance of the proposal, even in a very modified form, by the Western Powers would amount to a repudiation of their Berlin guarantee and a sell-out of the city to the Communists. No action by Western Powers could generate a more adverse reaction in German and world opinion, and the consequences would be incalculable.

Both the Federal and the Berlin Governments have declared that the Soviet proposal for an "open city" of West Berlin is unacceptable.

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Enclosure 4

CONSIDERATIONS GOVERNING RESPONSE TO SOVIET NOTE

The Soviet note does not offer any basis for discussions which could culminate in a solution of the Berlin problem acceptable from our point of view. In fact, the restatement of the known Soviet position, coupled with a proposal which is obviously unacceptable to the Western Powers, a denunciation of the pertinent agreements, and a deadline after which the Soviets will accept no further responsibility for Berlin, gives the note the character of an ultimatum.

Our reply should nonetheless be constructive and not be limited to a flat rejection of the Soviet proposal.

It is quite possible that the Soviet note may have an influence on the uninformed and wishful-thinking elements of world opinion. To those unfamiliar or unconcerned with the Berlin problem, the Soviet proposal, which would liquidate the problem of Berlin (although in a manner quite unacceptable to the population of Berlin and to ourselves) and thus eliminate a major source of tension in international relations, might have a certain appeal. A purely negative reaction by the Western Powers could make it appear to the uninformed that the USSR was forthcoming in making a new proposal but that a solution of the Berlin problem was prevented by the intransigence of the Western Powers.

Our reply might appear more constructive if it avoided polemics about historical interpretations insofar as possible, or at least subordinated this to more substantive aspects. While the various distortions of history and fact contained in the Soviet note must be refuted, it might be preferable

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to separate those detailed corrections from our formal reply and to deal with them instead in a white paper which would be given world-wide circulation. (The drafting of such a white paper has already begun.)

A refutation of the legal position which the USSR is attempting to adopt will, however, be an essential element of our reply. The restatement of our case might be accompanied by a proposal to submit the legal dispute to the International Court of Justice (see Tab G, below).

It is preferable that our reply not be limited to the Berlin question, but rather place the Berlin question in the context of the broader German question, of which it is a part. There can be no separate solution for the question of Berlin; the only real and lasting solution will come through the liquidation of the Berlin problem as a consequence of German reunification.

Our reply could therefore take the form of a new initiative for the solution of the problem of German reunification and the attendant problem of European security. The Khrushchev speech of November 10 and other threats against the status of Berlin had already provoked a crisis of the first magnitude in the relations of the Western Powers and the USSR in Germany. Underlying this crisis is a challenge to the very basis of Western policy on the German question and a supreme test of Western intentions, influence, and power in Germany. We are now in a position where it would be difficult, and probably unwise, for us to content ourselves with an attempt to maintain an illusory normalcy in Berlin. On the other hand, if we accept the challenge implicit in the present crisis and in the Soviet note, we have a chance to wrest the initiative from the Soviets. An additional factor which makes

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makes this an opportune moment for doing so is the strong support which public opinion, especially in Germany, has given to the idea of the Western Powers' holding fire.

Our reply must contain a negotiating posture. Since the Soviet note makes it clearer than ever that the Soviets will not accept any reunification of Germany in terms acceptable to the Germans and ourselves and that the Soviets are more fully committed than before to the position that reunification is an internal problem to be regulated by the "two German states," a restatement of the known Western position (e.g. some modification of the "Eden Plan") might appear anticlimatic. The Soviet note might, however, provide a springboard for a fresh approach to the German problem which could not only consolidate German opinion (which had shown some signs of wavering before the Berlin crisis) behind us but might also put sufficient pressure on the USSR to induce the latter, if not to yield ground on the question of reunification, at least to allow the status quo to be made more tolerable to the German population and to proceed with greater caution in harassing Berlin and eliminating the last vestiges of freedom in the Soviet Zone.

The dangers of modifying our substantive position on German reunification and European security in the hope of presenting, or appearing to public opinion to present, a proposal which could lead to genuine negotiations with the USSR is obvious. We might, however, be able to develop a few modifications which would represent at least a superficial change in our position. Possible examples are: (1) an expression of our willingness to permit the participation of German "experts" from either part of the country in any

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four-power discussions of the German problem; (2) full endorsement of the Federal Republic's proposal for a standing four-power commission to deal with the German question; (3) a suggestion that this commission, with the assistance of German experts from either side, undertake planning which will assist the eventual all-German state in developing compromise solutions to the economic and social problems which it will have to face as a result of the divergent developments within Germany since 1945 (i.e., an indication that the social and economic "accomplishments" of the East German regime will not be entirely obliterated as a result of reunification); and (4) a suggestion that the Four Powers, assisted by German experts, undertake negotiations to alleviate on an interim basis some of the hardships and inconveniences which the continued division of their country has caused for the German population.

Our reply must also take into consideration the question of a negotiating forum. We should not lose sight of the fact that proposals for general preparatory negotiations with the Soviet Union are now on the table in Moscow together with our procedural proposals and the package including agenda items proposed by both sides relating to Germany. We would have to consider whether we stand on the proposal at the Ambassadorial level or whether we are prepared to offer an immediate CFM or higher level meeting. In this case, we might offer a simple all-inclusive agenda, e.g. "Germany" or "German Problems."

Finally, we must bear in mind that the Soviets' indication that they might wait six months before abandoning their occupation functions with

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respect to Berlin does not diminish in the slightest the urgency of our reviewing our Berlin contingency planning to better adapt it to existing situations and likely developments. In the end, before the expiration of the "period of grace" and after the exhaustion of such peaceable remedies as appeals to the International Court of Justice and to the Security Council, we shall probably find it necessary to consider how we would honor our basic commitment to maintain Berlin's status and security.

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GERMAN REUNIFICATION AND EUROPEAN SECURITY

Discussions which were held in a Four-Power Working Group last summer indicated that the German Government does not consider itself bound by the provisions of the 1955 Geneva proposals regarding European security. The Germans appeared no longer to accept the idea of a zone of force and arms limitations in Europe, which was the heart of the Geneva Proposals. Consequently it proved impossible at that time to reach agreement on the substance of the military provisions which might be included in a European security arrangement.

The German position directly reflected Chancellor Adenauer's view that advancing the idea of a zone of control in Central Europe could lead to the neutralisation of Germany and the collapse of NATO. It may also have been tied up in the Chancellor's mind with a concern regarding developments in France. The Chancellor appeared to have some idea regarding a very wide zone of disarmament. This position was consistent with his emphasis on disarmament and with an apparent line of thinking in the German Government which is opposed to any arrangements applicable to Germany unless they are applied to other European countries generally.

In view of this disclosure we sent an aide-memoire to the Federal Government on September 29 (Enclosure 1) setting forth the Department's view that it is essential that agreement on European security arrangements be reached prior to any meeting with the Soviet Government at which the subject of Germany could be discussed. The aide-memoire also stated that we assume that the differences of opinion revealed in Paris "do not affect the positions already taken by the Western Powers in the agenda proposals submitted to the Soviet Foreign Minister" last spring.

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In reply to this memorandum the German Foreign Office indicated it was prepared "to take up discussions within the framework of the parameters used hitherto" but added that it considered it premature to do so while disarmament negotiations were in progress. (Enclosure 2)

The Germans also expressed the hope that the instructions to the Western Ambassadors on European security arrangements could be amended to conform with German views.

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U.S. "AIDE-MEMOIRE" OF SEPTEMBER 29, 1958

The Department of State has examined the report of the Four Power Working Group on German Reunification of July 18, 1958 as well as the report made by the Working Group to the NATO Committee on European Security. The Department believes that the Outline Plan prepared by the Working Group would be generally satisfactory as a framework for the presentation of the Western position on German reunification and European security at a possible Summit conference, provided that the unresolved points noted by the Working Group were resolved. The Department observes that certain of these points are of substantial importance. It considers that it would be essential that agreement on these matters be reached prior to any meeting with the Soviet Government at which the subject of Germany could be discussed.

The Department assumes that the differences of position on the Outline Plan reported by the Working Group do not affect the positions already taken by the Western Powers in the agenda proposals submitted to the Soviet Foreign Ministers on May 28, 1958 on behalf of the United States, United Kingdom and French Governments or the instructions transmitted to the Ambassadors of the Three Powers in Moscow on May 31 commenting on the Soviet Agenda proposals.

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POSSIBLE COURSES OF ACTION ON BERLINDISCUSSION:

Given the present state of our knowledge of Soviet intentions and Allied public opinion, it is necessary to begin with certain basic facts or realistic assumptions in assessing the various possible courses of action available to the Western Allies in meeting the new Soviet threat to Berlin. These are:

1. There is a broad measure of agreement between the three occupying powers and the Federal Republic that we must remain in Berlin to keep the population of the three Western sectors from being starved by blockade or brought under Communist domination.
2. The Soviets will probably move ahead by relinquishing their control functions at the Nowawes and Marienborn checkpoints on the Autobahn and at the Marienborn checkpoint on the rail line used by the military trains going to and from Berlin. They will probably attempt to substitute GDR controllers in the Berlin Air Safety Center, and they will probably close their commandature headquarters in East Berlin thus eliminating the principal Western working level contact with the Soviets. Conversely, at least at the present, there will probably be no action taken by the GDR to limit or harass German traffic between Berlin and the Federal Republic which for years has been subject solely to East German controls. Thus the initial problem is likely to be limited to the supply and travel of the Western military occupation in Berlin, with the exception of civil aircraft operations which would be confronted by the lack of Soviet guarantees of flight safety which the withdrawal

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the withdrawal of Soviet controllers and the refusal to admit GDR controllers into the Air Safety Center would bring about.

3. Allied contingency plans first formulated in 1954 which contemplate limited dealings with GDR officials at the checkpoints have come in for general criticism from officials of the Federal Republic and our own Embassies in Europe as starting us off on a slide down a slippery slope.

4. Expectancies have been created all over the world that the Allies will launch an airlift on a scale required by the specific needs of the situation. In the absence of a decision to resort to force, any decision not to mount an airlift, even if only a token one, would be interpreted as indicative of Allied unwillingness to make a real expenditure of their resources and effort to remain in Berlin.

5. There will be extreme reluctance on the part of the British and probably the French, as well as among at least some other NATO countries, to approve the use of force to maintain our land communications with Berlin rather than deal with GDR officials at the checkpoints. This is implicit in the British paper submitted to us and the French as a basis for discussion. Ambassadors Whitney and Houghton have jointly (Paris Telegram 1919 to Department) expressed their doubt that British and French opinion would support armed Allied action to force road access as a result of an effort by the GDR to impose acceptance of GDR travel documentation.

6. Sentiment seems to be building up in favor of a proposal for a four-power meeting with the Soviets. (This has been recommended by our Ambassadors in Moscow, London, Paris, and by General Norstad.) Chancellor Adenauer has also indicated

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also indicated to us that it will be desirable, even necessary, for the three occupying powers in Berlin and the Federal Government to meet at an unspecified level when the Soviets announce their measures against Berlin.

The attached papers discuss in some detail various courses of action open to us, as well as certain other aspects of the Berlin problem:

Enclosure 1 - Recommended Course of Action

Enclosure 2 - Withdrawal of Soviet Personnel from Railway and Autobahn Checkpoints and Current Contingency Plans

Enclosure 3 - Resort to Force to Maintain our Communications with Berlin

Enclosure 4 - Little Airlift to Supply Needs of Garrison

Enclosure 5 - Legal Aspects of Soviet Renunciation of Responsibility

Enclosure 6 - Military Implications of Allied Assumption of Soviet Obligations for Allied Access to Berlin

Enclosure 7 - Prospects for Negotiation with the USSR Regarding Germany.

Recommendations:

1. The United States should make a serious effort to obtain reconsideration by the British and French of outstanding contingency plans with a view to eliminating all dealing with GDR officials at the Autobahn and railway checkpoints. Our Embassy in Bonn should be instructed to raise the subject on an urgent basis with the British and French. (This will require that we have an alternative course of action to propose acceptable to the British and French.)
2. Urgent consideration be given to obtaining agreement within the U.S. Government on an alternative course of action to present contingency plans

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plans for discussion with the British, French and the Germans. The recommended course of action together with fallback position for use with the British and French initially, and subsequently with the Germans, is set forth in Tab A.

3. At an appropriate point NATO consultation should take place in order to obtain the support of the NATO countries.

(Prepared by State-Defense-JCS Working Group)

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TAB B
(Correction sheet.)

ADDENDUM TO

POSSIBLE COURSES OF ACTION ON BERLIN

Page 1, opening sentence:

In the light of the Soviet Note of November 27 and Khrushchev's speeches and interviews, together with our knowledge of the state of Allied public opinion, it is necessary to begin with certain basic facts in assessing the various possible courses of action available to the Western Allies in meeting the new Soviet threat to Berlin. These are:

Para. No. 1 -- bracket words /started by blockade or/

Para. No. 2 -- line 1, following word "ahead" insert --
"perhaps in less than 6 months"

Para. No. 5 -- add new final sentence:
"German opinion is divided on the question."

Para. No. 6 -- Insert new sentence after General Forstad.)
"...The Soviets publicly have hastened to
reject in advance any such proposals."

Insert in next sentence which begins
Chancellor Adenauer,
after for the "foreign ministers of the",
(b) change Government to "Chancellor",
delete everything following to meet and
substitute:
"In conjunction with the Paris NATO meeting
December 14-16 to discuss plans to respond
to the Soviet Note."

TAB A

Para A. -- Delete (1) urgently (if possible and substitute
"at an appropriate time" and (2) Khrushchev's
threat) and substitute "the Soviet Note." for
the latter two words.

Para B. -- Delete some other international body and substitute
"the International Court of Justice".

Para D. -- Add new sentence: "(Details of procedure prescribed
in Berlin's 422 and USAREUR's SX 7922)".

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Recommended Course of Action

A possible alternative which should be considered as a matter of urgency is the following:

A. That the three Ambassadors in Moscow inform the Soviet Government urgently (if possible before concrete steps are taken to implement Khrushchev's threat):

(1) That the Three Powers continue to hold the USSR fully responsible under quadripartite agreements and arrangements concerning Berlin;

(2) That the Three Powers have taken note of Soviet statements to the effect that the USSR will withdraw from its remaining occupation functions with respect to Berlin and that they assume this means the Soviets intend to withdraw Soviet personnel from the interzonal Autobahn and railway checkpoints and from the Berlin Air Safety Center;

(3) That the Three Powers' right of unrestricted access would remain unaffected by the Soviet withdrawal;

(4) That the Three Powers would not tolerate an attempt on the part of the so-called GDR to assert any control over or to interfere with their traffic to and from Berlin via quadripartitely established routes, and would take all measures necessary to protect their rights in this connection.

(5) That, if the Soviets withdraw, Western Powers will act on the assumption that the USSR has decided:

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a. to abolish unnecessary administrative procedures at the interzonal borders, and

b. that it can and will, without the benefit of exchange of flight information in BASC, maintain absolute separation of its aircraft and of all other aircraft flying in the Soviet Zone from the aircraft of Three Powers flying in the Berlin corridors and control zone.

(6) That the Western Powers will expect their traffic to move freely without any presentation of documents or other formalities at the interzonal borders and will assume that the Soviets have given a blanket assurance of the safety of all flights of the aircraft of the Three Powers in the Berlin corridors and control zone.

C. Consideration might be given as to whether recourse should be had to the Security Council or to some other international body.

D. That we attempt, if Soviet personnel are then withdrawn from the checkpoints, to send through both military trains on the normal schedule as well as an uncovered convoy on Autobahn and that we instruct the commanders to refuse to present any documentation to GDR checkpoint control officials or to comply with any formalities suggested or instructions given by the GDR. (If the first uncovered convoy goes through, a subsequent attempt could be made to send through a convoy containing some covered vehicles.)

E. If the GDR checkpoint personnel refuse to permit the passage of our trains and convoys on this basis, that we terminate military train and convoy operations and interrupt all other Allied Autobahn traffic.

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K. An attempt to reopen access through the use of limited military force should be made at this point. (This action would be omitted under the fallback position specified in points F and G, below. However, points F and G might also be applicable in the event that initial action by force failed.)

F. That we arrange to make available on a permanent basis sufficient aircraft to transport all Allied official personnel and also their goods formerly transported via military trains and trucks which could not be procured locally in Berlin or transported by German carriers. (This would mean instituting a "miniature airlift" for the needs of the Berlin occupation forces. - See Tab D.)

G. As a concomitant to the above course of action, we should consider whether the Three Powers should not take some additional step to guarantee their unrestricted air access to Berlin, which would be essential to maintaining the status and security of the city. The Three Powers might, for example, reformulate and restate their Berlin guarantee, modifying it so that they will regard any interference with their right and practice of unrestricted access to Berlin by air, including the operation of their civil air carriers, as an attack upon their forces and upon themselves. Communist harassment of our air access, which would be possible only through a patent application for force, would be clear evidence of a provocative intent. If it occurred, we could then take drastic counteraction to maintain Berlin, even at the risk of war, with fair assurance that such action would have the support of American, French, British and German public opinion.

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Enclosure 2

WITHDRAWAL OF SOVIET PERSONNEL FROM RAILWAY AND AUTOBAHN CHECKPOINTS
AND CURRENT CONTINGENCY PLANS

I. Statement of Problem

An immediate problem which we expect to confront if the Soviets relinquish their occupation functions with respect to Berlin will be created by the withdrawal of Soviet personnel from the railway and autobahn checkpoints and the attempt of GDR personnel to assert control over our movements. Generally speaking, we can react to such a development in one of the following ways:

A. By submitting to GDR controls and attempting to prevent these controls from being made more stringent than those now exercised by the Soviets;

B. By refusing to deal with the GDR, foregoing further use of military trains or of the Autobahn, and putting into operation a "miniature airlift" to transport Allied personnel and those goods required by the occupation forces which cannot be procured in Berlin or brought in by German carriers; or

C. By refusing to deal with the GDR and attempting to maintain our right of unrestricted access via the surface routes without GDR controls by military force.

II. Existing Contingency Planning

The existing contingency planning agreed on at the Government level in 1955 and confirmed on the working level in Bonn at the end of 1957 provided that we would not allow ourselves to be paralyzed if Soviet personnel removed from the railway and highway checkpoints and our trains and vehicles would not be allowed to pass.

A. We would deal with GDR officials on the same basis we now deal with the Soviets;

B. We would inform the Soviets we still hold the USSR responsible for our unrestricted access to Berlin;

C. We would refuse to comply with any GDR controls more stringent than those exercised by the Soviets.

(An extract from the enclosure to despatch No. 1075 from Bonn of December 18, 1957, which contains the detailed plans, was distributed to the ad hoc committee November 21.)

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III. Rationale

III. Rationale of Existing Planning

The rationale of the existing planning was the following:

A. It would provide at least a temporary situation, for our traffic between Berlin and West Germany would continue. We should thus get a "breathing space" to propose for any attempts of the GDR to assert more stringent controls.

B. By continuing to insist on the principle of Soviet responsibility at the same time we dealt with GDR officials in practice, we might be able to maintain that we considered the GDR officials only as agents of the Soviets.

C. Since the Communists can physically stop our traffic, our refusal to deal with GDR officials would lead to an interruption of our surface access. Our approved national policy on Berlin contains the outline of a contingency plan to deal with harassment which seriously impedes our access, a plan which contemplates a series of diplomatic demarches and military preparations culminating in the use of limited military force. The use of force (to which the British and French have in the past refused to commit themselves) involves a risk of general war. In view of this risk, we should have to be certain, before undertaking the steps contemplated for dealing with a blockade, that we would have the support of popular opinion in the U.S., the U.K., France, and Germany. Such support would not be forthcoming, however, in a situation in which we had in effect "blockaded ourselves" over what the public would view and the Communists would represent as a mere "procedural" issue, namely whether we showed our documentation to officials in East German uniforms or to officers in Soviet uniforms.

IV. Weaknesses and Disadvantages of Existing Contingency Planning

Recent developments, and further reflection in the light of these developments, lead to the conclusion that the contingency planning worked out in 1954 is now outdated and that serious difficulties may result if we are obliged to implement it at this time. The arguments which may be raised against implementing this planning may be summarized as follows:

A. The original rationale, as described above, is no longer very convincing.

1. The 1957 revision of the plans no longer refers specifically to the GDR personnel as "agents" of the Soviets. The objections to referring to an "agency principle" are that the USSR, the supposed principal, explicitly denies the existence of any agency relationship and that, if we were consistent in asserting that such a relationship did exist, we should have no basis for refusing to deal with the GDR on any other matter involving Soviet responsibility in Germany, including reunification.

2. The

2. The guidance on dealing with the GDR in a case similar contained in our approved national policy was based on the experience of the 1948-49 blockade and anticipated that pressure would arise as a result of direct harassment of all Berlin residents. The Soviets' grant of "sovereignty" to the GDR has however created a situation in which harassment can be limited to Allied traffic only and can take a more subtle form. It no longer seems appropriate to discuss the situation which we may soon be facing in terms of a "self-imposed blockade." On the one hand, a "blockade" would not be involved; on the other hand, the political issues underlying the threatened Communist action appear to be fairly clearly recognized by public opinion, which might not regard the interruption of Allied surface traffic as "self-imposed" and unnecessary.

B. Dealing with the GDR to the extent envisaged in our present contingency plans runs counter to our current policy regarding Germany and would tend to undermine the Western position that the USSR remains responsible under four-power agreements concerning Berlin and Germany as a whole. Although a legal case can be made that de facto dealings with GDR checkpoint officials do not connote recognition, the psychological repercussions would be strongly adverse. The GDR has been the "least recognized" of all the entities not accorded recognition by the United States, and we have wherever possible refused to have anything to do with GDR representatives.

C. It would probably not be possible to prevent the GDR from proceeding to exercise increasingly stringent controls over our traffic except by resort to force. We should have to expect a series of additional control measures, no one of which would provide a suitable occasion for a showdown on the basis of the considerations set forth in III, above. We should thus be obliged gradually to make one concession after another, and with each concession the position of the GDR would become more entrenched while our position would become more vulnerable. The thinking of the British, which assumes that we shall eventually have to extend diplomatic recognition to the GDR in response to pressures on our access to Berlin, illustrates the difficulty of attempting to draw a line. The end result could be that our position in Berlin would be untenable or that our remaining in Berlin would become purposeless.

D. Our dealing with the GDR would have a serious adverse effect on German opinion. We have already had expressions of concern on this score from Foreign Minister von Brentano, Bundestag majority leader Krone, and Governing Mayor Brandt of Berlin. Such action on our part would be seen as an abandonment of the established Western position regarding the German question and could trigger dangerous and unpredictable popular opinion trends in anticipation of further departures from the policy which the Western Powers and the Federal Government have followed in the past. The East German population might interpret such dealings as signifying the Western Powers' resignation to the inevitability of Communist rule over East Germany. USCINCEUR, our Embassy at Bonn, and our Mission at Berlin, on the basis of similar considerations, have all expressed the opinion that we should not deal with the GDR personnel at the checkpoints. It is clear from the statements of German officials and the German press, as well as from Ambassador Bruce's personal observations, that the Germans, from the Chancellor to the man in the street, expect the Three Powers to mount an airlift if necessary to overcome serious harassment of Berlin airmen and that they would be surprised and dismayed if we dealt with the GDR in preference to airlifting our own personnel and supplies.

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Enclosure 2

Implications of Use of Force to Maintain
Allied Access to Berlin
(prepared by Joint Staff-JCS)

BERLIN SITUATION

THE PROBLEM

1. To determine the implications involved should it become necessary to use military force to maintain allied rights and position in Berlin as set forth in current quadripartite agreements

ASSUMPTIONS

2. The Soviets intend to hand over to the GDR those functions in Berlin which are now reserved for Soviet organs.

3. The United States, United Kingdom and France have agreed that they will not recognize the alleged legal right of the GDR to take over Soviet functions which were mutually agreed to by the occupying powers.

4. Despite allied objections the Soviets may eventually impose through the GDR unacceptable restrictions, or partial, or complete blockade of Berlin directed principally at the Allied garrisons in Berlin.

5. Declarations of allied intentions to use military force will be made to the Soviets prior to the use of military force.

FACTS BEARING ON THE PROBLEM

6. Allied ground forces in Berlin comprise approximately 11,000 men as follows:

United States - two battle groups and a tank company (4200); United Kingdom - three infantry battalions and a tank company (2700); French - two infantry battalions (1000); and the West Berlin police force (3000). Soviet and GDR ground forces in Germany total approximately 501,000 men as follows:

Vicinity of Berlin - 4 Soviet divisions (38,500) and the East Berlin police force (3000); East Germany - 20 Soviet divisions (315,000) and 7 German divisions (145,000).

DISCUSSION

7. The relative strengths listed in paragraph 6 above clearly indicate that the use of only the allied forces in Berlin to maintain continuous free access to Berlin in face

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of determined opposition is not feasible. The military forces available to CINCPAC, together with national forces which could be made available to him, are adequate to maintain the Allied rights and position in Berlin if opposed only by GDR forces. Such engagement of forces is unlikely, however, in view of the defeat this would entail for overall Soviet objectives, and would therefore probably lead to general war. However, an examination of overall friendly and enemy orders of battle available for early reinforcement of the forces in paragraph 6 reveals no change in relative strengths in favor of the U.S. Therefore, it is not militarily acceptable to commit a large proportion of U.S. forces in Europe to a fight for continuous free access to Berlin if a general war appears probable. This would only lead to redeployment for general war and to the risk of losing the forces without accomplishing the purpose at hand.

8. In view of the above the allied course of action most likely to succeed is to convince the Soviet that the allies are determined to maintain their position in Berlin to the extent of engaging in general war if required. The courses of action open to the Soviets in face of this allied position are:

- a. Back-down in face of the threat of allied force.
- b. Support the GDR in employing harassing tactics to impede Allied access to Berlin.
- c. Oppose allied forces with GDR forces only, reinforcing them covertly with "volunteers" or Soviet forces.
- d. Engage allied forces with Soviet forces in a general war.

9. It appears probable that the Soviets do not desire general war at this time and therefore would not risk it to attain their objectives in Berlin. Accordingly it seems likely that they would discard the latter two courses of action because either could lead to general war. It should be noted that if the Soviets do not back down and subsequently support determined military opposition the situation could rapidly develop into general war. Appropriate measures should then be taken by the allies to attain a high state of national readiness, to include preparation for mobilization prior to the use of force.

10. Subsequent to our declaration of intent to use force if necessary, but prior to the use of such force, certain

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actions should be taken by the allies by the United States unilaterally to manifest our intentions. For example:

- a. Alert allied forces
- b. Redeploy ground and air units to optimize employment of forces in Germany.
- c. Cancel passes and leaves.
- d. Simulate operational traffic on tactical radio nets where necessary.

11. Allied participation in any military action in this situation is essential. It will also indicate a significant allied solidarity and will offer a greater chance to gain Soviet recognition of allied determination not to relinquish right of access to Berlin. In the event the allies do not support military action in this situation some of the principal effects would be:

- a. Probable requirement for an airlift
- b. Probable necessity for some form of recognition of the GDR.
- c. Furtherance of Soviet objectives.

d. Deterioration of the NATO alliance for the long term and increased measures for withdrawal of the allies from Berlin.

12. In summary it is concluded that:

a. A firm declaration should be made now by the United States and allies that we do not intend to recognize or deal with the GDR, that we will not allow the GDR to impede the exercise of any rights we presently hold, that we will not accept any control by the GDR over our movements to and from Berlin, and that we will use force if necessary to enforce our rights.

b. The United States does not have the military capability to enforce continuous access to Berlin or the maintenance of our rights there.

c. A convoy supported by appropriate force should be utilized to test GDR intentions and to force the issue promptly at the time of turn over of control of Berlin to the GDR by the USSR.

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d. The use of force will not necessarily insure continued access to Berlin or the maintenance of our rights in Berlin since rail and road communications can otherwise be disrupted.

e. If a decision is made to use continued force beyond that necessary to test intentions, appropriate measures should be taken by the Allies to attain a high state of national readiness to include preparation for the initiation of appropriate mobilization measures.

f. The use of force could possibly result in general war; however, it appears unlikely that the Soviets would risk general war to attain their objectives in Berlin.

g. Allied participation in any military action in this situation is essential.

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A MINIATURE AIRLIFT

TAB D

I. General Considerations

One course of action, which does not necessarily exclude others, although it would affect the timing and results of such other action, is a miniature airlift.

It is estimated that, because of the stockpiles of food, fuel and other necessities in Berlin, and because, for the present at least, it is probable that access for West German persons and goods will remain unaffected by increases in GDR controls, only a small airlift would be required. Reports from Berlin estimate the total amount required as approximately 100 tons a day, of which only 46 tons would be required for the United States forces. This amount would be less than 1 per cent of the high point of the 1948-49 airlift. Most of the heavy or bulky goods now transported by train could be procured locally.

With an airlift of a few flights a day, which could also bring into the city some supplies for the Berlin population for symbolic reasons, the problem of bad weather flying and radar direction would not apply.

It is possibly assumed that at some stage an airlift by cargo planes might be accompanied by fighter planes.

The arguments in favor of an airlift are mainly:

1. It would provide a breathing spell during which other measures could be developed.
2. It is expected by the Berliners and by most Germans and would therefore be held as a fulfillment of a pledge by the Western Allies - failure to act in this way might result in panic in Berlin unless there were a successful show of force.
3. Even a small airlift would probably be considered as dramatic evidence of Allied determination to remain in Berlin by many in the free and in the Communist world.
4. It has been well prepared and could be put in operation quickly.

Solid Food - 1 year supply
(70,000 tons).

Class V - 20 days supply at combat rates.

3. No significant shortages exist in Berlin Command (U.S.)

4. Best information available on British and French personnel in Berlin is that in numbers their combined total is approximately equal to that of the U.S. forces and that the stockpiles maintained by the British and French forces are equal to or greater than those of the U.S. garrison.

5. CINCUSAREUR has reported+ that the Berlin airlift plan provides for 50 tons daily for U.S. Berlin Military Command which is considered adequate for perishables as well as other emergency requirements. It is estimated that 50 additional tons daily would provide for British and French forces. The above would not include replenishment of stockpiles.

6. During the 1948-1949 Berlin Airlift Operation requirements reached a peak of 763 tons per day to support the U.S., British, and French military. This represents best available information as to total requirements for full resupply of military forces.

7. Headquarters USAFE Operations Plan 5-57 Berlin Airlift (Reduced), dated 18 March 1957, in support of Headquarters US EUCOM Plan (Berlin) 12-55, is based on utilizing theater assigned transport aircraft (1 Wing C-119s; 1 Wing C-130s; 1 Squadron C-124s). This plan is not current as it does not reflect the phase-out of the C-123 aircraft and the introduction of the C-130 aircraft. Otherwise, the plan is valid and establishes L-day as the day flight operations start and provides for the following phased capability into Berlin, which will also meet the outbound requirements. See Annex "A" for Tabulation of Assigned Theater Transport Aircraft Capability.

*CINCUSAREUR Message to Dept of Army Number SX-7752
DTG 191558Z Nov 58, on file in Joint Secretariat

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Time Period	Tons Lifted	Tons per Month
L to L/3	800	
L thru L/30	1,000	30,000
L/31 thru L/60	1,520	45,600

If necessary, augmentation of the transport aircraft in the theater could be made from MATS. For example, the addition of 30 C-124s would provide a homogeneous transport fleet with a capability of lifting 1520 tons per day (45,600 tons per month), and would free the C-130s and C-119s for normal intra-theater use.

8. Capability for interference with this airlift operation could include:

a. Withdrawal of Soviet participation in the Berlin Air Safety center with resultant implication in the safety of Allied air operations in the corridor airspace, i.e., Employment of Soviet fighter aircraft in harassing tactics against Allied transport aircraft within the corridor airspace.

b. Use of communications jamming or electronics countermeasures against navigation and air traffic control.

CONCLUSIONS

9. Present stock status of Allied forces in Berlin is excellent. There are no significant shortages.

10. There is adequate intra-theater airlift immediately available to supply perishable and emergency requirements of Allied forces in Berlin.

11. CINCUSAFE plan which provides for a build-up of tonnage delivered to 1520 tons per day is in excess of the expected requirement for full resupply of the Allied military forces in Berlin.

12. There are no logistical implications which would preclude an airlift resupply of Allied forces in Berlin.

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ATTACHMENT "B"

CAPABILITY OF SCIENCE ADJUSTED TO THE FOLLOWING

Delivery Capability of Various
Various Utilization of

No	Type	Payload	(2 Hrs)		(4 hrs)		(8 hrs)	
			Trips	Tons	Trips	Tons	Trips	Tons
12	C-124	25	7	175	14	350	21	525
48	C-130	17	28	476	56	952	84	1428
48	C-119	8	25	200	50	400	75	600
			<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
			80	851	120	1702	180	2553

* Based on assumption aircraft will operate from the Frankfurt, Wiesbaden Area

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LEGAL IMPLICATIONS OF SOVIET RENUNCIATION OF RESPONSIBILITY

Background:

Vis-à-vis Germany, the Allies were entitled to occupy, and assumed the right to occupy, all of Germany on the basis of the total defeat and surrender of that country. By formal agreements between the principal Allies, their respective shares in the common fight were defined.

The Protocol on the Zones of Occupation in Germany and the Administration of Greater Berlin, signed September 12, 1944, (5 U.S.T. 2078) provided in Article 1:

"Germany, within her frontiers as they were on the 31st December, 1937, will, for the purposes of occupation, be divided into three zones, one of which will be allotted to each of the three Powers, and a special Berlin area, which will be under joint occupation by the three Powers. "

In Article 2 it was provided:

"The boundaries of the three zones and of the Berlin area, and the allocation of the three zones as between the U.S.A., the U.K. and the U.S.S.R. will be as follows: [defining them]"

This agreement was amended on July 26, 1945 to provide for the admission of France and a readjustment of the sectors to accommodate her (5 U.S.T. 2093).

Our position as an occupying power in Berlin still exists. Nothing was done in 1955 when the Federal Republic of Germany became sovereign, or at any other time, which affected our status in Berlin. While there is a tripartite statement of principles for Berlin, ~~which is a rough equivalent of the former Occupation Statute in the Federal Republic~~, the occupation authority of the Three Western Powers is still maintained, even though we agreed to limit its use very drastically.

The history of the agreements, expressed and implied, between the Soviet Union and the United States regarding the right of the United

States

* It should be noted that our rights in Berlin stem from this agreement and not from the Potsdam Protocol of August 1, 1945.

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States to have access to Berlin by air. This is a complex and involved and complicated. It will suffice to say that it is assumed that such rights have existed at all times since the beginning of the occupation of Berlin by U.S. troops. They have not been recognized by the Soviets (except for the period of the last year or so) and have never been challenged by the Germans in the German zone. The official autobahn has been over certain agreed paths, while other routes have been operated by the Soviets. Upon presentation of certain documentation, official travel by these paths has been permitted to pass without challenge (except for sporadic incidents). A Soviet official has participated in the quadripartite operation of the Berlin Air Safety Center in Berlin.

Assumptions:

This paper assumes that the Soviets will withdraw their personnel from the checkpoints on the autobahn and rail lines utilized by the United States for its official travel to and from Berlin, and will withdraw its representative from the Berlin Air Safety Center in Berlin. It is also assumed that we will not permit a representative of the GDR to participate in the Air Safety Center and that we will not submit to measures by GDR representatives which would restrict the official autobahn and rail traffic over the agreed paths.

Discussion:

1. The Soviets may, of course, employ Germans to carry out administrative functions in the operation and control of the railroad and the autobahn. They could indeed make the GDR personnel their agent for this purpose. Our dealing with the Germans in such capacities would not involve recognition of the GDR. As far as Governmental responsibility is concerned, the Soviet Union would still be the responsible power.
2. The Soviets cannot without our consent delegate to the GDR their responsibilities as an occupying power in matters relating to Berlin. As the agreed paths of our access to Berlin passed through the Soviet Zone, the Soviets were responsible for ensuring that our rights of access remained unimpaired. They may not now relieve themselves of this responsibility by delegating it to the GDR. This would be true of any attempt at substitution of another obligor without our consent, but is particularly true in the case of the GDR since the Germans in the Soviet Union are still technically an occupied population from our point of view.

3. The Four Powers have been in occupation of Berlin not by any agreement with Berlin or with Germany but by virtue of the conquest and unconditional surrender of Germany. By force of arms we acquired all rights. The consent of the Germans was in no way required or obtained.

At the conclusion of the fighting each of the armies might have stood on the ground which it was then occupying. Instead of doing so, they entered into the European Advisory Commission agreements, which allotted Zones of Occupation and provided for joint administration of Berlin. Accordingly, at the end of the war the armies moved to their allotted areas of occupation, including the appropriate sectors of Berlin. As Berlin was entirely surrounded by the Zone allotted to the Soviet Union, the right of access of the other three Occupying Powers to Berlin necessarily had to be assured by the Soviets. It is this responsibility that the Soviets are now seeking to avoid and it is this right of the three Occupying Powers that is in jeopardy. By unilaterally withdrawing ~~them~~ from its position as an Occupying Power, the Soviet Union has created a vacuum in the Occupation arrangements. If no one interferes with our right of access, there is no problem. On the other hand, if there is harassment or interference or threat of the same, it would seem that general principles applicable to joint operations would apply. When one party drops out, the remaining parties are entitled to fill the vacuum at least to the extent necessary to protect their rights.

It would therefore seem that, under such circumstances, the United States, the United Kingdom and France might properly take the position that in view of the Soviet withdrawal and renunciation of their obligations the Western Occupying Powers are entitled to take over the control of the autobahn to the extent necessary to ensure proper access to Berlin. The same principle would apply to the railroad and to control of air traffic between the Federal Republic and Berlin.

L:JMBaymond/dw 11/26/58

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MILITARY IMPLICATIONS OF ALLIED ASSUMPTION
OF SOVIET OBLIGATIONS FOR ALLIED ACCESS TO BERLIN

J-3 position paper on the military aspects of supporting by military action a legal theory that Soviet rights in Berlin expressed under quadripartite agreements, would be inherited by the United States, United Kingdom and France in the event of total Soviet relinquishment of these rights to the GDR.

THE PROBLEM

1. To determine the practical military aspects of supporting, by military action, a legal theory that Soviet rights in Berlin expressed under Quadripartite agreements would be inherited by the U.S., U.K. and France in the event of total Soviet relinquishment of these rights.

ASSUMPTIONS

2. The U.S., U.K. and France will adhere to the view that they legally inherit all rights and obligations in Berlin if these rights are relinquished by the Soviets to the GDR.

3. The Soviets may consider any military action against GDR forces as an attack on the USSR and back the GDR with military force.

4. Additional assumptions as set forth in Tab C.

DISCUSSION

5. Air Access - Allied rights in Berlin include uninterrupted operation of the Berlin Air Safety Center (BASC), located at the Tempelhof Airport in West Berlin. If the Soviets withdraw and GDR representatives attempt to take part in, or hinder, the operation of BASC, simple ejection of the GDR representatives from the center and from West Berlin would probably make continued operation of BASC feasible. Continued Allied air traffic to and from Berlin would depend, however, on no serious effort to disrupt this traffic.

6. Rail Access - Continued operation of the railroads, in the event the GDR seriously attempts to disrupt it, would present a very difficult problem. Rail movements are already under effective East German operational control; if this were challenged by force rails could be cut or rail bridges blown at almost any point in East Germany. Accordingly it is not considered militarily feasible to expend the large military effort required to maintain continuous rail access to Berlin. In addition, any premature action here is undesirable since most of the supplies for the U.S. garrison in Berlin are carried by rail and the chances of success in maintaining this route of access are negligible.

7. Road

7. Road Access - Maintenance of road access to Berlin appears to be the crux of the problem. The following courses of action are possible within the context: to maintain the allied right of road access to Berlin:

- a. Disregard GDR checkpoints and use force if necessary to maintain access to Berlin.
- b. Seize established checkpoints and defend the allied operation thereof.
- c. Establish "symbolic" allied checkpoints adjacent to GDR checkpoints to perform previous Soviet functions and defend them with token forces.
- d. In conjunction with a, b, or c above, outpost bridges, defiles and obstacles on the autobahn, patrol the autobahn, and take any other military action required to protect convoy operation on the autobahn.

8. Consideration of Courses of Action - The courses of action indicated in paragraph 7 above would lend visible support to the legal theory outlined in the problem. However, the courses of action set forth in paragraph 7 above if contested by determined opposition would require the employment of additional allied military forces. As stated previously in Tab C position paper the use of allied force will not necessarily insure continued access to Berlin or the maintenance of our rights in Berlin. The course of action set forth in subparagraph 7c above, may have greater legal or political value in this situation since it does not necessarily involve the employment of allied military force against the GDR. However, the mere establishment of symbolic checkpoints does not guarantee allied access to Berlin.

CONCLUSION

9. The courses of action set forth in paragraph 7 above would lend visible support to the legal theory outlined in the problem.

10. Courses of action set forth in paragraph 7 above are not feasible if resisted by determined forces since they would then involve the use of allied military force which would not necessarily insure continued access to Berlin.

11. Course of action set forth in subparagraph 7c above may have more legal or political value than the other courses of action, but will not insure continued access to Berlin.

12. Each of the courses of action herein, if supported with Allied military force against determined opposition, leads to the situation examined in Tab C and the conclusions therein are applicable here.

13. None of the courses of action herein is suitable as a guarantee of Soviet intentions from a military point of view.

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Prospects for Negotiation with the USSR Regarding Germany

The Problem

To make an offer to negotiate with the Soviet Union parallel to the statement of a firm assertion of our rights in Berlin.

Discussion

The desirability of accompanying a demonstration of Western determination to maintain their rights in Berlin by force if necessary by a proposal to the USSR for high level negotiations on the German problem as a whole has been endorsed by Ambassador Thompson, Whitney and Noughton, and General Norstad. At the working level at the Quai d'Orsay it is felt that such a proposal should be made only after the West actually demonstrates willingness to use force.

In considering the desirability of a Western offer to negotiate it is assumed:

- (a) We will demonstrate the will to enforce Western access to Berlin.
- (b) We will not deal with the East German regime.

There appears to be no possibility of profitable negotiations on Berlin access alone. The Soviets would not negotiate to confirm our rights and we will not negotiate with the East Germans. The Government of the German Federal Republic has expressed the view that if the Western Powers decide to negotiate on the status of Berlin, this should be done only in a Four Power context and as a political offensive encompassing far reaching demands.

The alternatives to negotiations concerning Berlin would be:

- (a) Negotiations on the German problem.
- (b) Negotiations on Germany and European security.
- (c) Summit negotiations in which Germany and European security be one general topic.

We have offered to negotiate a settlement of the German problem on the basis of reunification through free elections. The Soviets insist that the two German "states" must negotiate reunification and that the role of the Four Powers is to negotiate a peace treaty and work out with the Germans the future political, military and economic status of a unified Germany.

The West has repeatedly offered to provide proposals for general European security arrangements to afford security guarantees to the USSR in return for its acceptance of a fully sovereign, unified Germany, under a freely elected government. These proposals generally involve some form of limitations of forces and arms in a reunified Germany and guarantees against possible future aggression by her. These proposals have never been spelled out in detail owing to the absence of any indication from the Soviets of a willingness to negotiate. Efforts to arrive at an agreed US-UK-French-West German position on specific proposals to serve as the basis for an initiative in the field of negotiations and to strengthen the public

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posture of the West on the problem have been unsuccessful. These efforts are stalled at present owing to the German unwillingness to agree to the Outline Plan (Annex A) discussed in the Four Power Working Group on Germany. This attitude is based on the feeling that Germany should be an equal NATO partner in a military as well as any other sense.

The Soviets have endeavored to consolidate the Communist system in East Germany as well as in Eastern Europe and to improve their strategic position in general by putting forth a number of proposals concerning disarmament and European security. These include proposals for withdrawal of foreign troops from Germany, the demuclearization of Germany, Poland and Czechoslovakia, aerial inspection against surprise attack in Central and Western Europe.

The Mayor of West Berlin has suggested that the Geneva talks on test suspension and surprise attack be broken off as a means of exerting pressure on the Soviets.

The US-UK-and France most recently proposed the convening of Four Power talks on Germany in a note to the Soviet Union on September 30, 1958.

The German Federal Republic replied to a Soviet proposal for Four Power negotiations on November 17, 1958.

Recommendations

(a) That the proposal of the Western Powers to negotiate with the USSR on the German problem be reiterated in connection with a demonstration of the Western Powers to maintain their rights in Berlin by force if necessary.

(b) That notification of the impending use of force for this purpose be accompanied by an offer to negotiate new rights in Berlin on a far reaching basis.

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TAB C

U. S. Aide-Memoire of December 11, 1958
Regarding Amending the Berlin Access Contingency Plans

The following aide-memoire was handed to the British and French Embassies in Washington on the afternoon of December 11. It is understood that the Paris NATO meeting will be the place where these problems will be discussed quadripartitely on the ministerial level.

Aide-Memoire

The United States Government has concluded that existing tripartitely agreed Berlin access contingency plans dating from 1954, as amended in 1957, are clearly not applicable to the present situation created by the Khrushchev speech of November 10 and the Soviet note of November 27. The rationale upon which existing contingency plans were based is no longer convincing.

By unilaterally withdrawing from its position as an Occupying Power, the Soviet Union will create a vacuum in the Occupation arrangements. If no one interferes with our right of access, there is no problem. However, in the light of present practice (in which the "German Democratic Republic" already controls West German traffic completely) and the announced intentions of the Union of Soviet Socialist Republics and the "German Democratic Republic," harassment may be expected but, at least initially, probably would not involve total blockade as in 1948-49 but could be limited to Allied traffic only. If there is actual or threatened harassment or interference it would appear that general principles applicable to joint operations would apply. When one party drops out, the remaining parties are entitled to fill the vacuum at least to the extent necessary to protect their rights. Under these circumstances, the Three Powers would be justified in asserting their rights to take over control of the Autobahn and railroad and to control air traffic between the Federal Republic and Berlin to the extent necessary to ensure their unrestricted access to Berlin.

In no event would the "German Democratic Republic" become the beneficiary of an attempted relinquishment of its rights and obligations by the Union of Soviet Socialist Republics or an attempted voiding by the Union of Soviet Socialist Republics of the occupation rights of the Western Powers in Berlin, without the consent of the Western Powers. Further, they cannot be divested of their rights as occupying powers without their consent, which would presumably be given only in connection with a final settlement in the form of a peace treaty.

In 1954, when the agency theory was considered feasible, it was assumed that the Soviets would only partially and gradually relinquish their controls. The theory breaks down when both principal (Union of Soviet Socialist Republics) and agent ("German Democratic Republic") deny such relationship and the Soviet Union is simply attempting to abandon its responsibilities. If we were consistent in asserting that the agency relationship did exist between the "German Democratic Republic" and the Union of Soviet Socialist Republics, we should logically have no basis for refusing to deal with the "German Democratic Republic" on any other matter involving Soviet responsibility in Germany.

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As emphasized in communications from our Ambassador in Bonn, it is evident that the populace of Berlin as well as that of the Soviet Zone and the Federal Republic would regard any dealing with the "German Democratic Republic" checkpoint officials by the Western Powers as a first step, however tentative, toward recognition of the "German Democratic Republic" regime. Officials of the Federal Republic and of Berlin would inevitably draw conclusions from such action which would adversely affect both the present Allied position on the German question and Allied-German relationships. In addition, we would have to reckon with far greater difficulties in mobilizing public opinion for a firm stand at some later stage, when we had already gone part way down the "slippery slope," than would be the case at the moment the first "German Democratic Republic" officials appear at the checkpoints. Finally, recognition of the "German Democratic Republic" by the Allies would make Allied access to Berlin even more vulnerable with the end result that our position would become completely untenable.

The Government of the United States is instructing its Embassy at Bonn to raise as a matter of urgency with representatives of the British and French Embassies the need to reconsider existing contingency plans with a view to eliminating all proposals for dealing with "German Democratic Republic" officials at Autobahn and railway checkpoints. After tripartite agreement has been reached the United States Government considers that it would be appropriate to inform the Government of the Federal Republic of the full details of the revised plans.

In place of present plans, the United States Government is communicating to its Embassy at Bonn the following approved United States course of action for discussion with representatives of the British and French Embassies:

A. The Three Ambassadors in Moscow should inform the Soviet Government at an appropriate time (1) that the Three Powers continue to hold the Union of Soviet Socialist Republics fully responsible under quadripartite agreements and arrangements concerning Berlin; (2) that the Three Powers have noted Soviet statements to the effect that the Union of Soviet Socialist Republics will withdraw from its remaining occupation functions with respect to Berlin. That they assume this means the Soviets intend to withdraw Soviet personnel from the Interzonal Autobahn and railway checkpoints and from the Berlin Air Safety Center; (3) that the right of the Three Powers to unrestricted access to Berlin would remain unaffected by such Soviet withdrawal; (4) that the Three Powers will not tolerate any attempt on the part of the "German Democratic Republic" to assert any control over or to interfere with their traffic to and from Berlin via quadripartitely established routes, and that they would take all measures necessary to protect their rights in this connection; (5) that, if the Soviets withdraw, the Western Powers will act on the assumption (a) the Union of Soviet Socialist Republics has decided to abolish unnecessary administrative procedures at interzonal borders, and (b) the Union of Soviet Socialist Republics can and will, without benefit of exchange of flight information in the Berlin Air Safety Center, maintain absolute separation of Soviet aircraft and all other aircraft flying in the Soviet Zone from aircraft of the Three Powers flying in the Berlin corridors

and

and the Berlin Control Zone (b) that the Three Powers shall expedite their traffic to move freely without any passport, visa or other formalities at international borders and will ensure the absolute free zone blanket assurance of safety of all Three Power aircraft in the Berlin corridors and the Berlin Control Zone

4. That an attempt of Soviet personnel to enter without pass from the checkpoints, to send through both military and civilian convoys and a convoy on the Autobahn and that we insist on commanders as indicated in paragraph C below to refuse to present any documentation to "German Democratic Republic" checkpoint officials or comply with any formalities suggested in instructions given by the latter

C. 1. If the "German Democratic Republic" checkpoint personnel refuse to permit passage of our trains and convoys without formalities, the procedure recommended by the Three Deputy Commandants at Berlin, as amplified by the United States Commandant in Berlin and the Commander-in-Chief, United States Army, Europe, would apply as above. In essence this is that on the Autobahn single military vehicles or convoys will demand transit through the Soviet zone as a matter of right. If this is refused the vehicle or convoy commander will ask the "German Democratic Republic" official to produce a Soviet officer to whom normal documentation would be shown. If passage without documentation and the demand to see a Soviet officer are both refused the convoy or vehicle commander will turn back and report the matter to the military police on duty at the Allied checkpoint and furnish a full report of the incident to the United States (British or French) Commander. The same procedure would apply to privately owned vehicles licensed by the United States Army authorities. Instructions for privately owned vehicles of Embassy personnel bearing license plates issued by the Federal Republic would be worked out in coordination with the three Embassies.

C. 2. Rail instructions involve basically the same procedure, i.e., the train commander will declare to the "German Democratic Republic" official that the train is a military train and demand transit through the Soviet Zone as a matter of right. If the train is permitted to proceed without meeting further demands of East German officials, the train commander will transmit via radio his normal departure message from the Marienborn station and follow this with a second message notifying the Commanding General, Berlin Command of the presence of East German officials at the checkpoint.

C. 3. If the East German officials refuse to let the train pass and demand documentation, the train commander will ask for a Soviet officer to whom normal documentation will be shown. If a Soviet official is not produced or if the Soviet personnel appear but refuse to accept the normal documentation or to deal with the train commander, the train commander will

request that his train be returned to its origin station. If return of the train is refused, the train commander will immediately report via radio to the Commanding General, Berlin Command and await further instructions.

C. 4. The Commanding General, Berlin Command will immediately notify United States Commander, Berlin and the Commander-in-Chief, United States Army, Europe, and no further action will be taken until approved by the Commander-in-Chief, United States Army, Europe.

D. At this stage of developments and before considering resort to an airlift an attempt to reopen access through the use of limited military force should be made in order to demonstrate our determination to maintain surface access. In any case, the Soviets and East Germans should not be allowed to entertain doubts as to our determination to do so if need be. Even if force is not resorted to at once we should continue to assert our rights to resume interrupted traffic and our intention to do so by force.

E. As a concomitant to the above course of action, we should consider whether the Three Powers should not take some additional step to guarantee their unrestricted air access to Berlin, which would be essential to maintaining the status and security of the city. The Three Powers might, for example, reformulate and restate their Berlin guarantee, modifying it to add that they will regard any interference with their right and practice of unrestricted access to Berlin by air, including operation of their civil air carriers, as an attack upon their forces and upon themselves. Here the issue of flight in the corridors over 10,000 feet might be solved by a simple Three Power agreement to fly at an altitude appropriate to efficient operation of individual aircraft. Communist harassment of our air access, which would be possible only through patent application of force, would be clear evidence of provocative intent. If it occurred, we could then take such military/political/economic counteraction as necessary to maintain Berlin with assurance that such action would have the support of American, French, British and German public opinion.

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